

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Sweeney Analyst: Gloria McConnell Bill Number: AB 1630

Related Bills: _____ Telephone: 845-4336 Amended Date: 05/22/98

Attorney: Janet Ballou

Sponsor: _____

SUBJECT: Child Support Enforcement/State Agencies Report Names & SSNs of Contractors to Employment Development Department

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Support.

☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS AMENDED 03/18/98, and 04/14/98, STILL APPLY.

☒ OTHER - See comments below.

SUMMARY OF BILL

The bill, among other things, would require certain state agencies and contractors or subcontractors to report the following information to EDD for inclusion in its new employee registry (NER):

1. Each state agency that makes state loans or grants would report the recipient's name, address, social security number (SSN) and the recipient's employer's name;
2. Each state agency, including the Franchise Tax Board (FTB), would report the name and SSN of each contractor that contracts with the state, unless reported under current law. In the event the contractor is a corporation or partnership, the name and social security number of the responsible managing person would be reported; and
3. Each contractor or subcontractor who contracts or submits a bid to contract with the state would report the name and SSN of each employee who will perform work on the state contract, unless reported under current law.

The bill describes the form and manner for reporting to EDD and provides the period during which the reported information would be retained by EDD.

The bill also would make changes related to private debt collections with respect to collection of child support obligations. These amendments do not impact the FTB.

SUMMARY OF AMENDMENT

This amendment would:

Board Position:

<input checked="" type="checkbox"/> X	S	_____	NA	_____	NP
_____	SA	_____	O	_____	NAR
_____	N	_____	OUA	_____	PENDING

Department/Legislative Director

Date

Johnnie Lou Rosas

6/15/98

- Require state agencies making state loans or grants to include the recipients name and address on the report filed with EDD;
- Require contractors and subcontractors submitting a state contract bid to report to EDD the name and SSN of each employee who will perform the services if the bid is accepted;
- Provide that the operative date for the bill is generally July 1, 1999, and specifically apply to contracts entered into with the state on or after July 1, 1999;
- Require state agencies to report to EDD the name and SSN of the responsible managing person of a corporation or partnership that contracts with the state; and
- Provide that reporting requirement under this bill would be satisfied if the information is currently being reported to EDD.

EFFECTIVE DATE

The operative date of the bill is generally July 1, 1999, and specifically for contracts entered into with the state on or after July 1, 1999.

Implementation Considerations

The bill, as amended, resolves certain of the considerations raised in FTB's previous analyses, the remaining considerations are as follows. This bill affects FTB both as a contracting state agency and in its child support collection program. This analysis presumes that the information being reported to EDD would be used by FTB for its child support collection program because of FTB's current practice of using EDD records for this purpose.

As a contracting state agency, FTB would be required to report the names and SSN of each contractor with which it contracts. The following implementation considerations are identified with respect to the **contract-reporting requirement**:

- The SSNs and name must be reported on all contracts. The majority of FTB's contracts are with corporations, and certain major contracts are with partnerships. The bill, as amended, requires the reporting of the name and SSN of the "responsible managing person." It is unclear whether all corporations and partnerships have a designated "responsible managing person." Also, it is unclear what is to be achieved with this information. Additionally, there is no indication as to the consequences if the contracting corporation's or partnership's "responsible managing person" refuses to allow this information to be reported, especially considering that it is unclear for what purpose this information would be used.
- There is no indication when the information must be reported. According to EDD, presumably the information would be reported within 20 days after the loan is made or contract is executed, consistent with the NER requirements. This time frame should be codified.

To allow FTB to effectively use the reporting requirements of this bill to enhance its **child support collection program**, the bill should require the reporting state agency to report and EDD to capture the name and address of the agency or the address to which the withholding order should be issued, if other than the reporting agency. FTB's interest in this information is primarily for collection of child support. The information required to be reported under this bill would be used to issue withholding orders for child support owed by the person that is being reported. For reportings required by Section 10234 of the Public Contract Code, as added by this bill, and under current law, FTB would issue earnings withholding orders. For reportings under Sections 7235 and 11017 of the Government Code, as added by this bill, FTB would issue continuous withholding orders. Therefore, for FTB to ascertain the type of withholding order it should issue, the EDD would have to code and pass on to FTB the information reporting source. Furthermore, to maximize the enhancement to FTB's child support collection program and limit unnecessary reporting to EDD, the following implementation considerations are identified:

- The bill would require every state agency making a state loan or grant to report the recipient's SSN and employer's name. It is unclear the purpose for the employer reporting. Under the Unemployment Insurance Code (UIC), if the recipient is employed, the employer would be reporting this person as an employee. In the case of a student, the recipient may not be employed, or in the case of a small business loan, there would not be, an employer. It is, therefore, unclear whether the intent is to make the grants and loans subject to collection for debts. If the FTB were to use the information to issue a withholding order to the state agency that reported the name of the recipient, and the withholding order were received before the loan or grant is paid to the obligor, it is unclear whether it is the intent of the author for the payments to be withheld (intercepted) to pay child support rather than for the purpose for which the loan was intended (i.e., small business loan, educational financial aid).
- For FTB to attach payments made to subcontractors who are sole proprietors, the bill should be amended to require that contractors report their names and addresses and the names and SSNs of their subcontractors who are sole proprietors and going to perform work on a state contract.

BOARD POSITION

Support. At its May 28, 1998 meeting, the Franchise Tax Board voted 2-0 to support this bill, the Department of Finance was absent.